

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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LLOYD WILLIAMS,

Plaintiff/Counter-Defendant-Cross-  
Appellee/Cross-Appellant,

and

UN-REEL, INC.,

Plaintiff/Counter-Defendant-  
Appellant/Cross-Appellee,

v

TVT RECORDS, INC.,

Defendant-Appellee/Cross-  
Appellee,

and

OVERTURE MUSIC, L.L.C.,

Defendant/Counter-Plaintiff-  
Appellee/Cross-Appellant.

UNPUBLISHED  
September 21, 2006

No. 259210  
Genesee Circuit Court  
LC No. 02-073502-CK

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Before: Saad, P.J., and Jansen and White, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

Plaintiffs' second amended complaint included three counts. The circuit court properly dismissed Count I on the basis that there was no proof that defendant used plaintiff's name to commercial advantage. Count III, against TVT, was properly dismissed for the reasons stated by the majority.

Count II was a claim for fraud and conversion. Plaintiffs seek to avoid the preemption provisions of the Copyright Act, 17 USC 301, by asserting that this claim is based upon breach of contract for specially manufactured goods or conversion of such goods. The former was not pled. The latter is a viable claim. However, plaintiffs do not, in reality, complain of the

misappropriation of the actual CD. Rather, plaintiffs claim damages from the publication, use and distribution of the song tracks on the CD. Plaintiffs' work was, it appears, used without permission and without compensation. However, their remedy was pursuant to the copyright act.

Regarding mediation sanctions, the record is not clear regarding why the court awarded the amount it did, and I am therefore unable to conclude that the court abused its discretion. I would remand for reconsideration and a statement of reasons.

/s/ Helene N. White